

AS

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 96-073-C - ORDER NO. 96-494

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AUGUST 7, 1996

IN RE: Application of AT&T Communications of)	ORDER
the Southern States, Inc. for Amendment)	APPROVING
of its Certificate of Public Convenience)	AMENDMENT OF
and Necessity to Authorize the Company)	CERTIFICATE
to Offer and Provide Telecommunications)	TO PROVIDE
Service, including Local Exchange)	LOCAL SERVICE
Services, throughout South Carolina.)	

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Application of AT&T Communications of the Southern States, Inc. (AT&T or the Company) to amend its Certificate of Public Convenience and Necessity so as to authorize the Company to offer and provide local exchange telecommunications services throughout South Carolina. The Company's Application was filed pursuant to S. C. Code Ann. §58-9-280, and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed AT&T to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of AT&T's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. AT&T

complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. Petitions to Intervene were received from BellSouth Telecommunications, Inc. (BellSouth); the Consumer Advocate for the State of South Carolina (the Consumer Advocate); American Communications Services, Inc. (ACSI); GTE South, Inc. (GTE); the South Carolina Telephone Association (SCTA); and the South Carolina Telephone Coalition (SCTC).

A hearing was commenced on May 22, 1996, at 10:30 a.m. in the Commission's Hearing Room. The Honorable Rudolph Mitchell, Chairman, presided. AT&T was represented by Francis P. Mood, Esquire; BellSouth was represented by Harry M. Lightsey, III, Esquire and William F. Austin, Esquire; the Consumer Advocate was represented by Elliott F. Elam, Jr., Esquire; ACSI was represented by Russell B. Shetterly, Esquire; GTE was represented by Steven W. Hamm, Esquire; SCTA was not represented in the proceeding; SCTC was represented by M. John Bowen, Jr., Esquire and Margaret M. Fox, Esquire; and the Commission Staff (the Staff) was represented by F. David Butler, General Counsel.

Two witnesses were presented in this case. AT&T presented the testimony of James M. Mertz, and SCTC presented the testimony of L. B. Spearman.

James M. Mertz, a District Manager of Government Affairs for AT&T, testified during the hearing. Mertz noted that AT&T is a New York corporation. Mertz stated that AT&T has been certified to provide interLATA long distance telecommunications services

within the State of South Carolina since December 29, 1983, and has been authorized by the Commission to provide intraLATA long distance telecommunications services since June 3, 1993.

Currently, according to Mertz, AT&T offers a broad range of consumer and business telecommunications services. The services are available throughout the entire State of South Carolina, and include interLATA long distance and intraLATA long distance and operator services.

AT&T proposes to provide local exchange services to customers throughout South Carolina through a combination of resold local exchange services purchased from incumbent local service providers, and the use of its own facilities. Mertz notes that negotiation of Interconnection Agreements with incumbent providers will be required, and further, that there are a number of resale and operational issues which must be negotiated with the incumbent local exchange companies (LECs) before AT&T can file and implement detailed tariffs concerning service areas, service descriptions, and rates. According to Mertz, because AT&T has no presence in local markets today, it must rely upon incumbent LECs in order to provide services both through resale and facilities-based. New local service providers must negotiate with the current LECs on issues such as interconnection, unbundling, operational issues, discounts for resale, and other matters before they will be able to offer local exchange service. According to Mertz, the outcome of these negotiations will alternately affect both the scope and price of AT&T's service offerings. Final tariffs will be filed

after such negotiations are completed and before services are offered. Mertz noted that a tariff accompanying AT&T's Application was filed for illustrative purposes only.

At the beginning of the hearing, counsel for AT&T noted that Staff had a number of questions and/or concerns with the illustrative tariff. With permission of counsel for AT&T, a list of these matters was entered into the record as Hearing Exhibit 1. Counsel for AT&T stated, as a preliminary matter, that AT&T found the recommendations and suggestions well taken, and said that the Staff recommendations would be addressed in final tariffs filed for the Commission's approval.

Mertz went on to testify that AT&T will comply with the rules, policies, and statutes applicable to local exchange services or will request waivers from any requirements where compliance would be unnecessarily burdensome in certain other situations. Mertz testified that AT&T has the financial, managerial, and technical resources to provide the services proposed. Mertz also testified that AT&T will ensure the quality of the services that it proposes to provide. AT&T also noted that approval of its Application is the first step in bringing competition to the local exchange market. AT&T noted that in the equipment and interLATA markets, competition brought about many benefits, including more efficient pricing, stimulated demand, improved service quality, an expanded array of product and service capabilities, greater reliability, and increased customer choice and satisfaction. Mertz noted that if competition for local

exchange services develops in South Carolina, that customers of local exchange service could be expected to enjoy these same benefits.

L. B. Spearman testified on behalf of the SCTC. Spearman expressed concern that AT&T did not specify specific markets within South Carolina that it wished to serve. Spearman also stated that the rural areas must be considered prior to granting AT&T's Petition, and that AT&T should not "cherry pick" the most profitable customers throughout the State without any obligation, such as the incumbent LECs have to serve the unprofitable or lower profit margin customers. According to Spearman, such a practice would have a severe adverse impact on small LECs and their customers. Spearman also testified that other important provisions of the Federal Act would be circumvented with respect to the rural companies if the Commission were to grant AT&T the authority it requests. Finally, Spearman requested on behalf of SCTC that the Commission limit the scope of AT&T's Application, and, at the appropriate time, undertake the necessary steps to follow the guidelines set forth by the Federal Act with regard to rural and small LECs.

Although we believe that there is merit in the request of AT&T, as shown by the testimony of witness Mertz, we do agree that the rural LECs and their customers must be afforded special consideration in this Order, due to the protections provided for rural areas by the Federal Telecommunications Act of 1996, South Carolina Act No. 354 and other applicable laws. These protections

and policies are designed principally to protect rural customers by ensuring continued availability of affordable local telephone service. We do believe that the rural LECs and their customers must be protected from assimilation of the rural LECs' best customers into the AT&T network, without a corresponding responsibility to serve the less profitable customers.

Furthermore, we believe that other policies and provisions of Federal and State law must be considered at the appropriate time with respect to rural areas. Therefore, although we intend to grant the amendment of the certificate sought by AT&T, we do intend to provide specific protections for the rural LECs and their customers, as shall be denominated below.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission comes to the following conclusions.

First, we believe that the amendment of the Certificate as sought by AT&T should be granted. We believe that AT&T has the managerial, financial, and technological ability to provide the services for which approval is sought, and that competition for local services is in the public interest in the non-rural areas of South Carolina. However, we are hereby clearly holding that we are making no finding at this time that competition in the rural areas of South Carolina is in the public interest. Any judgment on this issue shall be reserved until an exemption proceeding or policy proceeding comes before this Commission or at another appropriate time.

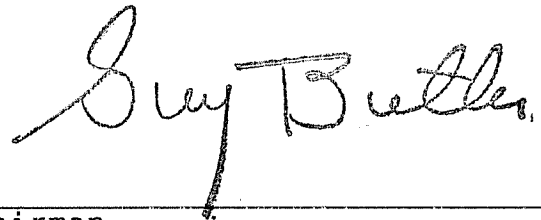
With regard to the non-rural LEC service areas of South Carolina, AT&T is authorized to provide the services requested, and AT&T's Certificate is so amended.

We wish to further make it clear that although no further Application is required of AT&T for certification, and its Certificate is so amended, AT&T may not provide any local service by its own facilities or otherwise to a customer located in a rural incumbent LEC's service area, unless or until AT&T provides such rural incumbent LEC and the Commission, written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Further, the Commission reserves unto itself the opportunity during this time to set forth policies, procedures, and guidelines relevant to such proposed service as may not conflict with Federal or State law. The Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while it conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause. It is specifically provided that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Order in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications as they may be entitled. If, after notice from AT&T that it intends to serve a customer

located in a rural incumbent LEC's service area, and the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or if the Commission institutes a proceeding of its own, no service may be provided by AT&T pursuant to this Order without prior and further Commission approval.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:


Executive Director

(SEAL)